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ABSTRACT

Under Temporary Assistance for Needy Families (TANF), states face steadily increasing work participation requirements. The TANF structure presents one new option: the ability to use TANF funds for community service employment in wage-paying, publicly funded jobs designed to provide work for individuals and to address unmet community needs. A program of community service employment can offer a set of distinct advantages over the usage of unpaid work experience programs in return for receipt of TANF assistance. Among the advantages of a community service employment approach are the following: (1) programmatically, a job paying wages will seem, and be more like work, than will a slot in a work-for-welfare program; (2) fiscally, both the individual and the state would benefit, because individuals earning a wage will qualify for the federal Earned Income Tax Credit; and (3) in some circumstances, community service employment could function as an alternative to welfare, rather than just as the terms under which a family received welfare. A state considering a wage-based approach faces numerous choices: how wage-based positions should be used; whether wage-based positions would primarily be in state or local government; what the appropriate contribution is by the organization that receives an employee; and whether waged positions should primarily be viewed as training slots or as providing employment opportunities of the last resort for persons unable to attain unsubsidized employment. (YLB)

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Community Service Employment:

A New Opportunity Under TANF

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Community Service Employment:

A New Opportunity Under TANF

The Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) places a strong emphasis on work for needy parents receiving assistance under the state programs created with Temporary Assistance for Needy Families (TANF) block grant funds. TANF's participation rate requirements are designed to ensure that a significant and increasing percentage of the adults receiving assistance are "engaged in work," whether in unsubsidized employment, subsidized employment, or other work activities. Under prior law, states that wished to provide work activities for individuals unable to attain unsubsidized employment were generally limited to using unpaid "work experience" programs and wage subsidy programs. Initial thinking in many states appears to be that when expanded participation in work activities is needed, the principal approaches will be reliance on these two program options, and perhaps loosely structured community service programs. There appears to be little awareness that the law provides states with an important new opportunity in job creation: states may use federal TANF and state funds for community service employment, i.e., publicly funded, wage-paying jobs designed to provide employment for individuals and to address unmet community needs.

A community service employment component could serve important state goals in TANF implementation by providing workforce experience and training for individuals; income from employment for families; and needed services for communities. At this point, wage subsidies to private employers and unpaid work experience programs are more familiar options for many states. However, it is doubtful whether private wage subsidies can effectively operate on the scale needed to provide work for a substantial number of the TANF families who are unable to find unsubsidized employment. And, as compared to unpaid work experience, a program of community service employment could generate the self-esteem that flows from employment; greater income for affected families and their communities; and more extensive community participation and support. Lack of recent experience, and concerns about costs may make policy makers and program administrators hesitant about including a community service employment component as part of TANF implementation. However, serious consideration should be given to this option in light of the potential advantages it offers.

The Community Service Employment Option

While many of the available options for states under TANF are familiar, the one clearly new menu option presented by the TANF structure is the ability to use TANF funds for community service employment: wage-paying, publicly-funded jobs designed to provide employment for individuals and to address unmet community needs. Under federal regulations in the JOBS Program, states were expressly prohibited from using JOBS funds for public job creation. That bar is removed by the PRWORA. As a result, a state designing its program under TANF may elect to use TANF funds, state maintenance of effort funds, or both, to create community service employment for needy families.(1)

Newly authorized federal Welfare-to-Work grant funds and required state matching funds will also be available for use in a community service employment program. These funds can be used for a range of activities including community service and work experience programs as well as "job creation through public and private sector wage subsidies." A community service employment program might be included in any of these categories.(2)

Community service employment may, but need not, be in the public sector. A state could choose to establish a structure in which the individuals work for state or local government agencies. Alternatively, a state might also structure a program in which federal TANF and/or state funds(3) were used to pay all or part of the cost of wages for individuals who would be employed by non-profit organizations. Under limited circumstances, a state might also envision fully subsidizing the cost of community service employment with private for-profit employers.

In administering a TANF program, a state's principal effort will be to maximize unsubsidized employment. When there are not sufficient opportunities for unsubsidized employment, there may be political interest in the use of wage subsidies to private employers. While a wage subsidy effort can be part of an overall strategy, wage subsidy programs (e.g., work supplementation, on-the-job training) have tended to be quite small, and there are serious questions as to whether a state could effectively implement a program of wage subsidies on the scale needed to provide work for the TANF families unable to find unsubsidized employment. In addition, as compared with wage subsidy programs targeting private employers, the community service employment approach offers the ability to ensure that public funds are used for public purposes, and the ability to target funds for the creation of new job opportunities. The work performed by participants can be planned with community needs in mind and targeted to provide community benefits that public and non-profit organizations may not otherwise have the resources to meet.

A program of community service employment can also offer a set of distinct advantages over the usage of unpaid work experience programs in return for receipt of TANF assistance. Among the advantages of a community service employment approach:

> Programmatically, a job paying wages will seem - and be - more like work than will a slot in a work-for-welfare program. To the extent that program participants are expected to be those who are able to work but unable to find employment, it seems very likely that they would prefer the dignity of work and a wage, and much of the public would surely prefer that individuals were working in a job rather than receiving "welfare" whenever possible. It also seems likely that employer expectations of program participants will more closely approximate the expectations of regular workers than is the case when participants are working in exchange for their welfare grants.
>
> Fiscally, both the individual and the state would benefit, because individuals earning a wage will qualify for the federal Earned Income Tax Credit. In 1997, a parent with two children will qualify for a 40% wage credit on the first $9,140 of her earnings through the federal Earned Income Tax Credit. If a work slot is structured as a waged position rather than as a work experience slot, the family's disposable income would substantially increase (4). At the same time, these federal dollars would flow into the state

without any required state match or other state contribution; the only action the state must take is to ensure that a work slot is structured to provide waged employment. Thus, both poor families and their communities would have increased income as a result of the work of program participants. At a time when many states continue to be interested in developing additional means to provide support to working poor families, one of the most straightforward approaches a state can take is to ensure that those who are working will qualify for the Earned Income Tax Credit.

In some circumstances, community service employment could function as an alternative to welfare, rather than just as the terms under which a family received welfare. In many states, a job offering as few as 20 or 25 hour per week (and in every state but Alaska, a full-time job) would provide income greater than that provided by the state's current grant for a family of three. Thus, individuals could be provided such jobs instead of a grant, and individuals in such jobs would not need to be or be seen as "receiving welfare."

It is also at least possible that a state would be able to operate a community service employment program on a larger scale than a program of unpaid work experience, because there will be more support for the concept among non-profit organizations that might be potential work sites. Unpaid work experience programs have often been controversial because of public concern that individuals are working without the rights or status of other workers; such concerns need not be present in a program of community service employment.

In the past, a principal perceived advantage of an unpaid work program is that it seemed simpler and cheaper to avoid the costs involved in an employment relationship -- payment of the minimum wage and compliance with other legal obligations of an employer.(5) However, in May, 1997 the U.S. Department of Labor issued an important policy statement in the form of a guide entitled "How Workplace Laws Apply to Welfare Recipients." The Guide clarifies that the new welfare law does not exempt recipients from federal employment laws, including the Fair Labor Standards Act, the Occupational Safety and Health Act, Unemployment Insurance, and various antidiscrimination laws. With regard to federal minimum wage protection the Guide specifies that unless they fit with a narrow exception for trainees, "Welfare recipients in "workfare" arrangements, which require recipients to work in return for their welfare benefits, must be compensated at the minimum wage if they are classified as "employees" under the FLSA's broad definition."

The operation of a work-for-welfare model consistent with FLSA requirements will involve increased complexity, because the state (or administering entity) will face the need to ensure that each month, the family's hours of required work do not exceed the level at which a potential FLSA violation would result. Since grants often fluctuate for a range of reasons, a state may need to readjust the hours of obligation regularly to ensure that there is no FLSA violation. Moreover, the hours of obligation based on the family's grant level may fall short of those needed to count toward TANF participation rates, or to be optimum for purposes of a training or work experience. Each of these factors militate in favor of the relative simplicity and more straightforward nature of the wage-based approach.

As to other costs, it does seem clear that the requirement to pay FICA taxes raises the cost of the work slot as compared to an unpaid work position, but an important public purpose is being served: paying into the Social Security trust fund may offer significant advantage to the family (and possibly lower state general assistance or disability costs) at some future point.

In recent discussions about the pros and cons of wage-based approaches, a common question concerns whether a parent receiving the minimum wage and qualifying for the Earned Income Tax Credit will feel sufficient "incentive" to seek unsubsidized employment. The principal incentive likely to exist in any community service employment program is the temporary nature of such a placement for any individual. Job slots would be structured for a discrete period of time, and be followed by a period of intensive job search and job placement efforts, in order to ensure that those individuals participating in the jobs did not have available unsubsidized alternatives. In addition, a state can build in additional incentives to seek unsubsidized employment by limiting (or increasing) the number of hours of available employment, building in additional contact with job developers or case managers, and by the fact that the position (if funded with federal TANF dollars) is likely to count against the TANF sixty-month limit.

Choices and Models

A state considering a wage-based approach faces numerous choices. Among them:

- How should wage-based positions be used? As one of a number of program components? As the "event" that occurs when a family reaches a time limit? As a substitute for cash assistance for some families under certain circumstances?

- Should wage-based positions primarily (or exclusively) be in state or local government? Primarily (or exclusively) in non-profit, community-based organizations?

- What is the appropriate contribution by the organization that receives an employee? Some part of the cost of wages? Benefits? Training or other responsibilities?

- Should waged positions primarily be viewed as training slots, or as providing employment opportunities of the last resort for persons unable to attain unsubsidized employment?

It is also useful to consider current examples of such programs that are in operation or are under consideration. The only operational program of which we are aware is the Vermont Community Service Employment (CSE) program that has been in operation since late 1995. The program develops jobs in both the public and non-profit sectors for parents in families who have reached the time limit for AFDC/TANF benefits specified in state policy but who have been unable to find unsubsidized employment.(7) Placements last for up to 10 months, after which a two-month job search period is required. Subsequent placements following an unsuccessful job search period are also available. The hours of work are calculated by dividing a family's AFDC/TANF grant at the time of entry into the program by the minimum wage. The CSE program pays for the full cost

of wages, the employer share of FICA taxes, Workers Compensation and liability insurance, and provides a monthly $90 stipend to participants to cover the FICA taxes deducted from their wages and transportation costs. Employers are responsible for supervision of workers, but have no other expenses. The incremental costs of each placement, not including development of work sites, participant case management, and child care, is currently calculated to be $1,138 per participant per year. The current annual budget for the program anticipates a total of 590 CSE participants.

Another program has been proposed in the Pennsylvania legislature. The bill would create 10,000 jobs in public and non-profit agencies for recipients of public assistance.(8) Placements would be designed to "...ensure that all participants are engaged in activities that provide valuable work experience to the participant and produce demonstrable public benefit."(9) The proposal would require that at least 60% of all participants would be individuals who are: basic skill deficient; lacking a high school diploma or equivalency diploma; or without significant prior work experience. Each placement could last for up to 18 months, and would be a full-time position paying a minimum of $6.00 per hour. If employees ordinarily employed to do comparable work were paid at higher rates, the employer would be required to pay the difference between the prevailing rate at the $6.00 per hour minimum.

The Vermont and Pennsylvania projects reflect two of many possible approaches to the numerous program design issues that will need to be resolved in developing and implementing a community service employment program. Because there has been so little experience with publicly funded employment programs in recent years, there may be strong reason for a state to begin with a demonstration project or phased implementation in a limited part of the state in order to identify and respond to issues that arise in the operation of a community service employment program.

Conclusion

Under TANF, states face steadily increasing work participation requirements. For many states, an initial approach may be to make greater use of work experience programs, with which states often have some recent experience and to attempt to initiate wage subsidy programs to place participants in private sector jobs. As discussed above however, each of these options has significant limitations. States need to explore every alternative that has the prospect to both satisfy the new participation requirements, and to improve the financial security and employment prospects of poor families. Accordingly, it is particularly important for states to appreciate the new possibilities of making use of TANF funds for community service employment.

1. States have considerable flexibility in structuring state spending that will satisfy TANF maintenance of effort requirements. For a detailed discussion of these options and their policy implications, see The New Framework: Alternative State Funding Choices Under TANF (CLASP, March 1997).
2. For a detailed description of the newly authorized Welfare to Work grant system, see Welfare-to-Work Grants and Other TANF-Related Provisions of the Balanced Budget Act of 1997 (CLASP, August 1997).

3. Unless otherwise indicating, TANF subsumes both block grant and new Welfare-to-Work funding, and state funding subsumes TANF "maintenance of effort" funds, and Welfare-to-Work state match funds.
4. A provision included in the Taxpayer Relief Act of 1997 (Section 1085(c)) as an amendment to the Internal Revenue Code specifies that payments made to participants in work experience or community service programs under Section 407(d)(4) or (7) of TANF are not to be considered earned income for purposes of calculating an individual's eligibility for the Earned Income Tax Credit. This restriction will only apply to the extent the payments are subsidized under the state's TANF program. However, if a community service employment program is categorized more accurately as offering either, or both, "subsidized public sector employment" (Section 407(d)(3)) or "subsidized private sector employment" (Section 407(d)(2)) the newly enacted restrictions on EITC eligibility will not apply.
5. For a comparative analysis of the costs and other obligations of creating wage-paying positions as compared to work experience positions, see The Fiscal and Legal Framework For Creating a Community Service Employment Program, Emsellem and Savner (November 1997).(6)
6. A forthcoming paper by CLASP will address these legal questions.
7. The Vermont "Welfare Restructuring Project" establishes a 15 month time limit for non-exempt two-parent families, and a 30 month time limit for non-exempt single parent families.
8. An Act Establishing the Job Opportunities in Basic Services (JOBS) Program.
9. Id., Section 6(b).